

SENATE No. 814

The Commonwealth of Massachusetts

PRESENTED BY:

Fargo, Susan (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to provide for the autonomy for hospital medical staffs.

PETITION OF:

NAME:

Fargo, Susan (SEN)

DISTRICT/ADDRESS:

Third Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01221 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROVIDE FOR THE AUTONOMY FOR HOSPITAL MEDICAL STAFFS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 111 of the General Laws, as appearing in the 2006 Official Edition, is
2 hereby amended by inserting after section 57D the following new section: -

3 Section 57E. (a) For the purpose of this section, the following words shall have the following
4 meanings:-

5 “Governing Board” means the Board of Trustees, the Board of Directors or the equivalent, of a
6 hospital.

7 “Hospital” means any hospital licensed under section 51 of this chapter.

8 “Medical staff” means those physicians and other health care professionals who are privileged to
9 attend patients in a hospital.

10 (b) Purpose.

11 The General Court finds that:

12 (1) Providing quality medical care in hospitals depends on the mutual accountability,
13 interdependence, and responsibility of the medical staff and the hospital governing board for the
14 proper performance of their respective obligations;

15 (2) The final authority of a hospital governing board may be exercised for the
16 responsible governance of the hospital or for the hospital's business, but this final authority may
17 only be exercised with a reasonable belief that the medical staff has failed to fulfill a substantive
18 responsibility in matters pertaining to the quality of patient care;

19 (3) It would be a violation of the medical staff's self-governance and independent rights for the
20 hospital governing board to assume a duty or responsibility of the medical staff precipitously,
21 unreasonably, or in bad faith;

22 (4) The specific actions that would constitute bad faith or unreasonable action on the part of
23 either the medical staff or the hospital governing board will always be fact-specific and cannot
24 be precisely described in statute;

25 (5) The provisions set forth in this section and sections 57E to 57G inclusive do nothing more
26 than provide for the basic independent rights and responsibilities of a self-governing medical
27 staff;

28 (6) Ultimately, a successful relationship between a hospital's medical staff and the governing
29 board depends on the mutual respect of each for the rights and responsibilities of the other.

30 (c) Requirements.

(1) The medical staff's right of self-governance shall include, but not be limited to, all of the following:

(i) establishing, in medical staff bylaws, rules, or regulations, criteria and standards, consistent for medical staff membership and privileges, and enforcing those criteria and standards;

(ii) establishing, in medical staff bylaws, rules, or regulations, clinical criteria and standards to oversee and manage quality assurance, utilization review, and other medical staff activities including, but not limited to, periodic meetings of the medical staff and its committees and departments and review and analysis of patient medical records;

(iii) selecting and removing medical staff officers;

(iv) assessing medical staff dues and utilizing the medical staff dues as appropriate for the purposes of the medical staff;

(v) the ability to retain and be represented by independent legal counsel at the expense of the medical staff;

(vi) initiating, developing, and adopting medical staff bylaws, rules, and regulations, and amendments thereto, subject to the approval of the hospital governing board, which approval shall not be unreasonably withheld.

(2) The medical staff bylaws shall not interfere with the independent rights of the medical staff to do any of the following, but shall set forth the procedures for:

(i) selecting and removing medical staff officers;

(ii) assessing medical staff dues and utilizing the medical staff dues as appropriate for the purposes of the medical staff;

(iii) the ability to retain and be represented by independent legal counsel at the expense of the medical staff.

(3) With respect to any dispute arising under this section, the medical staff and the hospital governing board shall meet and confer in good faith to resolve the dispute. Whenever any person or entity has engaged in or is about to engage in any acts or practices that hinder, restrict, or otherwise obstruct the ability of the medical staff to exercise its rights, obligations, or responsibilities under this section, the Superior Court, on application of the medical staff, and after determining that reasonable efforts, including reasonable administrative remedies provided in the medical staff bylaws, rules, or regulations, have failed to resolve the dispute, may issue appropriate relief, including but not limited to injunctive relief while the matter is under dispute.

SECTION 2. This Act shall take effect on January 1, 2010.